

# Legal Assistance Resource Center ❖ of Connecticut, Inc. ❖

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## H.B. 5494 -- Possessions of deceased tenants

Planning and Development Committee public hearing -- March 16, 2012

Testimony of Raphael L. Podolsky

Recommended Committee action: NO ACTION OR  
AMENDMENT OF THE BILL

We believe that this bill identifies a problem in the drafting of C.G.S. 47a-11d but that it adopts the wrong solution to that problem. In particular, it converts a procedure intended to assure a public auction of any unclaimed property into one that allows the landlord to dispose of the property unilaterally and to keep the property himself or to sell it and retain all proceeds, without regard to the value of the property or any debt owed by the tenant. We believe that any revision of these provisions should attempt to protect the property for the benefit of the heirs and that the proceeds of any disposition should, if not transferred to the heirs, should be transferred to the state as unclaimed property.

C.G.S. 47a-11d, which is part of the Landlord-Tenant Act, creates an optional procedure by which the landlord of premises occupied by a single tenant who dies can remove the possessions of the deceased tenant without having to bring an eviction action and without risk that his removal of the possessions will be considered an illegal lockout. While one aspect of the statute is to provide a safe harbor for the landlord, its real purpose is to protect the property of the deceased tenant so that it will be available to his or her heirs. Notice to the heirs is therefore a critical part of the statute. As a result, any action in the probate court will preempt the 47a-11d procedure. In some cases, however, the heirs of the tenant may not be known or may not take sufficiently quick action to protect the possessions. This does not mean that the heirs have no interest in the property (it can take months to find heirs), nor does it mean that the possessions are of little value -- tenants in a wide range of income levels die under circumstances in which no one can be identified to protect the property. In addition, property of little cash value may have great sentimental value to the heirs.

H.B. 5494 deals only with the circumstance in which neither the probate court nor the deceased tenant's heirs have taken control of the tenant's possessions within 60 days after the landlord has notified the probate court of the tenant's death and his desire to remove the possessions. This will typically happen if the heirs are unknown or cannot be located or are not interested in the deceased tenant. H.B. 5494 attempts to clarify one part of the bill (l. 16-18) -- a confusing cross-reference to C.G.S. 47a-42, which deals with the dispossession of tenant possessions property after eviction. We believe that the cross-reference was intended to assure that the landlord cannot discard the property but must auction it and cannot keep for himself any property of value. H.B. 5494, in contrast, provides exactly the opposite. It authorizes to dispose of the by sale, auction "or any other manner" (i.e., they

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can be kept or discarded without an auction) and says that the landlord (rather than the municipality or the state) "shall be entitled to retain any proceeds from such sale or auction."

There are a number of possible alternatives that would be preferable to the bill. These include (a) requiring that any property of significant cash or sentimental value be turned over to the probate court, (b) allowing the landlord to sell or auction the property but not to discard or appropriate it to himself, (c) assuring that any proceeds of the sale be turned over to the state as unclaimed property. The latter option would at least permit the heirs to recover the value of the property if they appeared after the 60-day period expires.

If this bill comes out of committee, we would be pleased to work with the Planning and Development Committee to try to find an appropriate process for protecting the property or its fair value for heirs.